

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

WILLIAM A. DePARDO,
Plaintiff

V.

**MFS/SUN LIFE FINANCIAL
DISTRIBUTORS, INC. d/b/a
SUN LIFE OF CANADA and
TAC WORLDWIDE
COMPANIES,**

Defendants

CIVIL ACTION NO.: 04-0248DPW

**PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION
TO THE MOTION OF TAC WORLDWIDE
COMPANIES FOR SUMMARY JUDGMENT**

A. CALCULATION OF SHORT-TERM DISABILITY BENEFITS

The Court should find that there are genuine issues of material fact to be tried on the issue whether the \$12,000 monthly payment received by Mr. DePardo was a bonus or a commission. There is a genuine issue of material fact as to whether TAC underpaid Mr. DePardo's short-term disability benefits for 13 weeks. TAC's calculation of Mr. DePardo's benefit amount was unreasonable and not supported by evidence in the Administrative Record.

C. BENEFITS UNDER THE LIFE INSURANCE POLICY

The plaintiff offers no opposition to the defendant's motion in regard to life insurance benefits.

D. CONCLUSION

The Court should deny the defendant's motion with regard to TAC's underpayment of the benefit amount.

The Plaintiff, William A. DePardo,

By his Attorneys,

/s/ Nicholas S. Guerrero
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CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon the attorney of record for each party by mail pursuant to Fed. R. Civ. P. 5(a).

Dated: November 2, 2004

/s/ Nicholas S. Guerrero
Nicholas S. Guerrero